

## HOUSE BILL No. 1880

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.1-23.

**Synopsis:** Voluntary remediation tax credit. Makes the voluntary remediation tax credit available to a taxpayer irrespective of whether the taxpayer is participating in the state voluntary remediation program and irrespective of whether the property is located in a brownfield revitalization zone. Consolidates into a single resolution the determinations required of the legislative body to allow the credit. Provides that the credit does not apply to the extent that the taxpayer uses state financial assistance for the remediation. Allows carryback of a credit to the immediately preceding taxable year. Extends the credit for taxable years through 2005.

**Effective:** January 1, 2004.

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**Pierce, Weinzapfel, Wolkins**

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January 23, 2003, read first time and referred to Committee on Ways and Means.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1880

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 6-3.1-23-1.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JANUARY 1, 2004]: **Sec. 1.5. As used in this chapter,**  
4 **"legislative body" refers to:**

5 (1) **the legislative body of a municipality (as defined in**  
6 **IC 36-1-2-11) in which is located property on which**  
7 **remediation referred to in section 3(1) of this chapter occurs;**  
8 **or**

9 (2) **if the property referred to in subdivision (1) is not located**  
10 **in a municipality, the legislative body of the county in which**  
11 **the property is located.**

12 SECTION 2. IC 6-3.1-23-3, AS ADDED BY P.L.109-2001,  
13 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
14 JANUARY 1, 2004]: **Sec. 3. As used in this chapter, "qualified**  
15 **investment" means costs that:**

16 (1) **are incurred result from work performed in Indiana to**  
17 **conduct a voluntary remediation, whether or not under**



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IC 13-25-5, that involves the remediation of a brownfield;

(2) ~~may are not be~~ recovered by a taxpayer from another person after the taxpayer has made a good faith effort to recover the costs; ~~and~~

(3) **are not paid from state financial assistance;**

(4) **result in taxable income to any other Indiana taxpayer; and**

(5) are approved by the department of environmental management and the Indiana development finance authority under section 12 of this chapter.

SECTION 3. IC 6-3.1-23-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 3.5. As used in this chapter, "state financial assistance" means money received by a taxpayer:**

(1) **as a direct loan:**

(A) **under a state program; or**

(B) **of:**

(i) **loan proceeds; or**

(ii) **grant proceeds;**

**received by a political subdivision under a state program; or**

(2) **as a grant:**

(A) **under a state program; or**

(B) **of:**

(i) **loan proceeds; or**

(ii) **grant proceeds;**

**received by a political subdivision under a state program.**

SECTION 4. IC 6-3.1-23-5, AS ADDED BY P.L.109-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 5. (a) A taxpayer is entitled to a credit equal to the amount determined under section 6 of this chapter against the taxpayer's state tax liability for a taxable year if the following requirements are satisfied:

(1) The taxpayer does the following:

(A) Makes a qualified investment in that taxable year.

(B) Makes a good faith attempt to recover the costs of the environmental damages from the liable parties.

(C) Submits a plan to the legislative body ~~of the political subdivision in which the property is located to redevelop that:~~

**(i) describes the taxpayer's proposed redevelopment of the property; in a manner in which the legislative body determines to be in the best interest of the community.**

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- (ii) indicates the sources and amounts of money to be used for the remediation and proposed redevelopment of the property; and
- (iii) estimates the value of the remediation and proposed redevelopment.

**(D) Certifies to the legislative body that the taxpayer:**

- (i) has never had an ownership interest in an entity that contributed; and
- (ii) has not contributed;

to contamination (as defined in IC 13-11-2-43) that is the subject of the voluntary remediation, as determined under the written standards adopted by the department of environmental management and the Indiana development finance authority.

(2) The legislative body, of the political subdivision in which the property is located, after holding a public hearing of which notice was given under IC 5-3-1, adopts a resolution: under section 7 of this chapter

**(A) determining that:**

- (i) the estimate of the value of the remediation and proposed redevelopment included in the plan under subdivision (1)(C)(iii) is reasonable for projects of that nature; and
- (ii) the plan submitted under subdivision (1)(C) is in the best interest of the community;

**(B) determining that the taxpayer:**

- (i) has never had an ownership interest in an entity that contributed; and
- (ii) has not contributed;

to contamination (as defined in IC 13-11-2-43) that is the subject of the voluntary remediation, as determined under the written standards adopted by the department of environmental management and the Indiana development finance authority; and

**(C) approving the credit.**

(3) The department determines under section 15 of this chapter that the taxpayer's return claiming the credit is filed with the department before the maximum amount of credits allowed under this chapter is met.

(b) The redevelopment plan must include a statement of public benefits, which must include the following:

- (1) a description of the proposed redevelopment.



(2) An estimate of the number of individuals who will be employed or housed in the new development and an estimate of the annual salaries of the employees:

(e) (b) In determining whether the redevelopment is in the best interest of the community, the legislative body must consider, among other things, whether the proposed development promotes:

- (1) the development of low to moderate income housing;
- (2) the development of green space;
- (3) the development of high technology businesses; or
- (4) the creation or retention of high paying jobs.

SECTION 5. IC 6-3.1-23-11, AS ADDED BY P.L.109-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 11. (a) If the amount determined under section 6 of this chapter in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess:

(1) over for not more than the immediately following five (5) taxable years; The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or a refund of any unused credit: or

(2) back to the immediately preceding taxable year.

(b) The amount of excess available to be used for carryover under subsection (a)(1) is reduced to the extent it is used for:

- (1) a carryover under subsection (a)(1); or
- (2) a carryback under subsection (a)(2).

SECTION 6. IC 6-3.1-23-12, AS ADDED BY P.L.109-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 12. (a) To be entitled to a credit under this chapter, a taxpayer must request the department of environmental management and the Indiana development finance authority to determine if costs incurred in a voluntary remediation involving a brownfield are qualified investments.

(b) The request under subsection (a) must be made before the costs are incurred.

(c) Upon receipt of a request under subsection (a), the department of environmental management and the Indiana development finance authority shall: certify costs incurred in a voluntary remediation as a qualified investment to the extent that

(1) examine the costs

(+) result from work performed in Indiana to conduct a voluntary

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remediation under IC 13-25-5 that involves the remediation of a brownfield;

(2) may not be recovered by the taxpayer from another person after the taxpayer has made a good faith effort to recover the costs; and

(3) result in taxable income to any other Indiana taxpayer; as determined under the standards adopted by the department of environmental management; and

(2) certify any costs that the department and the authority determine to be a qualified investment.

(d) Upon completion of a voluntary remediation ~~that has for which costs have~~ been certified as a qualified investment under subsection (c), the taxpayer:

(1) shall notify the department of environmental management; and

(2) may request certification from the department of environmental management of the completion of the voluntary remediation for use under section 13(b)(2)(B) of this chapter.

SECTION 7. IC 6-3.1-23-13, AS ADDED BY P.L.109-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 13. (a) To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department of state revenue.

(b) The taxpayer shall submit the following to the department of state revenue:

(1) The certification of the qualified investment by the department of environmental management and the Indiana development finance authority and under section 12(c) of this chapter.

(2) Either:

(A) the certification of the completion of the voluntary remediation issued by the department of environmental management under IC 13-25-5-16(a); or

(B) the certification of the completion of the voluntary remediation issued by the department of environmental management in response to a request under section 12(d)(2) of this chapter.

(2) (3) Proof of payment of the certified qualified investment.

(3) Proof (4) A copy of the legislative body's approval of the credit resolution adopted under section 5(a)(2) of this chapter.

(4) (5) Information that the department determines is necessary for the calculation of the credit provided by this chapter.

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SECTION 8. IC 6-3.1-23-16, AS ADDED BY P.L.109-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 16. A tax credit may not be allowed under this chapter for a taxable year that begins after December 31, ~~2003~~ **2005**. However, this section does not affect the ability of a taxpayer to carry forward the excess of a tax credit claimed for a taxable ~~years~~ **2002 or 2003 year that begins before January 1, 2006**, under section 11 of this chapter.

SECTION 9. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2004]: IC 6-3.1-23-7; IC 6-3.1-23-8; IC 6-3.1-23-9; IC 6-3.1-23-10.

SECTION 10. [EFFECTIVE JANUARY 1, 2004] (a) **The following, all as amended by this act, apply only to taxable years beginning after December 31, 2003:**

(1) IC 6-3.1-23-3.

(2) IC 6-3.1-23-5.

(3) IC 6-3.1-23-11.

(4) IC 6-3.1-23-12.

(5) IC 6-3.1-23-13.

(6) IC 6-3.1-23-16.

(b) IC 6-3.1-23-1.5 and IC 6-3.1-23-3.5, both as added by this act, apply only to taxable years beginning after December 31, 2003.

(c) This SECTION expires January 1, 2004.

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